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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,966	08/20/2003	Takayuki Ishiguro	241756US	4995
22850	7590	06/09/2005		EXAMINER
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			NGUYEN, HUY D	
			ART UNIT	PAPER NUMBER
			2681	

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/643,966	ISHIGURO ET AL.	
	<b>Examiner</b> Huy D. Nguyen	<b>Art Unit</b> 2681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 20 August 2003.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-9 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-4 and 7-9 is/are rejected.

7)  Claim(s) 5 and 6 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12302003.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Padovani et al. (US 2003/0063583 A1).

Regarding claims 1-2, and 7, Padovani et al. teaches a radio communication method of conducting data transmission and reception between a radio base station and a radio terminal by executing one or more processes, the radio communication method comprising the steps of: executing processes in the radio base station depending upon a number of processes executed in the radio terminal, and transmitting/receiving data to/from the radio terminal (e.g., if the C/I measurement of a base station 4 is above a predetermined threshold, the base station 4 is added to the active set of mobile station 6); monitoring in the radio base station for the occurrence of handover or for a possibility of occurrence of handover in the radio terminal (e.g., during the soft handoff direction message); and controlling the number of processes executed at the executing step according to a result of monitoring conducted at the monitoring step (e.g., during handoff, 3 processes are done at base station 4: a) assigns mobile station 6 to a reverse power control (RPC) Walsh channel; b)monitors the reverse link transmission; c)sends an RPC bit on their respective RPC Walsh channels – see paragraph [0081]).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padovani et al. in view of Servais et al. (US Patent No. 6,141,388).

Regarding claims 3 and 8, Padovani et al. teaches the radio base station according to claim 2 except that the handover monitor detects a possibility of occurrence of handover on the basis of an error rate in radio communication between the radio base station and the radio terminal.

The preceding limitation is taught in Servais et al. (see abstract).

It would have been obvious to one having ordinary skill in the art, at the time of the invention, to apply the teaching of Servais et al. to the teaching of Padovani et al. in order to characterize the performance of a communication channel and to support channel decision making.

5. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padovani et al. in view of Nakano (US 2002/0193135 A1).

Regarding claims 4 and 9, Padovani et al. teaches the radio base station according to claim 2 except that the handover monitor detects a possibility of occurrence of handover on the basis of a distance between the radio base station and the radio terminal.

The preceding limitation is taught in Nakano (see paragraph [0027]).

It would have been obvious to one having ordinary skill in the art, at the time of the invention, to apply the teaching of Nakano to the teaching of Padovani et al. in order to prevent overall deterioration of communication quality in uplinks and an increase in the number of cases where an uplink signal does not reach a base station resulting in call connection fails.

#### ***Allowable Subject Matter***

6. Claims 5-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Oobayashi (US 2002/0045449 A1) teaches mobile communication terminal apparatus, control circuit, and handoff control method.
- Torskala et al. (US 2003/0152031 A1) teaches physical layer packet retransmission handling in WCDMA in soft handover.
- Torsner (US 2005/0039101) teaches method and system of retransmission.

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- Soderstrom et al. (US 2004/0146033) teaches method, system and equipment for retransmission in communications systems.
- Parolari (US 2004/0081248) teaches method of link adaptation in enhanced cellular systems to discriminate between high and low variability.
- Cheng et al. (US 2003/0224774 A1) teaches reverse link handoff mechanism with hybrid-ark and cell site selection in cdma2000 1xev-dv systems.

***Contact Information***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy D. Nguyen whose telephone number is 571-272-7845. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 703-306-0003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Huy Nguyen

  
Huy D. Nguyen  
EMMANUEL L. MOISE  
SUPERVISORY PATENT EXAMINER

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